jured employes in the course of their employment; to provide methods of insuring the payment of such compensation; to create an Industrial Board for the administration of the act and to prescribe the powers and duties of such board; to abolish the State Bureau of Inspection, and provide for the transfer to the Industrial Board certain rights, powers and duties of the Bureau of Inspection.

The original act passed in 1915 was elective and left employer and employe the option of rejecting its terms with certain exceptions. It was amended in 1917, and railroad employes engaged in train service were exempted from its provisions.

The amendment of 1919 made the act mandatory as to all coal mining companies of the State and its political divisions and as to municipal corporations. To all other employers the act remains permissive. They may elect to operate under its provisions. Railroad employes engaged in train service are not within them.

The sole question presented is the validity of Section 18 as amended, that is, the compulsion of coal companies to the operation of the Act, while to other employers it is permissive, or does not apply at all. The grounds of attack upon it are that it violates the due process clause and the equal protection of the laws' clause of the Fourteenth Amendment of the Constitution of the United States and Sections 21 and 23 of the Indiana Bill of Rights. Specifically, the question is, as the Coal Company expresses it, "whether the Indiana General Assembly may pass a general compensation law, applicable to all employers within the State, and make it compulsory as to one hazardous employment, and elective as to all others (many equally as hazardous) except railroad employes in train service to which it does not apply at all". And the insistence is "that such a classification rests upon no sound or just basis", and hence is inimical to the Constitution of the United States and that of Indiana.

The principle of law involved and the power of a State to distinguish and classify objects in its legislation have been too often declared, too abundantly and variously illustrated, to need repetition and we pass immediately to the contention of counsel. It is that the act is addressed to hazardous employments and where in employments that character exists, sameness exists, and a law which ignores such sameness discriminates in its operation

and offends the Constitution of the United States. It may be that the Coal Company does not contend for so broad a principle but may assert protection by a comparison of its business with other businesses equally hazardous, or even more hazardous than coal mining, and that necessarily the exemption of the businesses so compared from the law taints it with illegal discrimination. To support and justify the comparison, statistics of accidents are given in the complaint, and in the number of accidental injuries coal mines are made to run fifth. Notwithstanding those other companies may go in or out of the law—coal mining companies must stay.

The answer replies with counter assertions and statistics and a detail of the methods of coal mining and what their methods cause of accidents to the miners, and to these are added, it is said, the risks that come from the generation of noxious and explosive gases. And there is evidence in the case addressed to the conflicting statistics and the conclusions to be deduced from them which occupies about ninety-three pages of the record. In this evidence occupations and businesses are compared with estimates of accidents in each, and their character, severity and consequences, fatal and otherwise. There is also testimony of the wages that mine workers get and of their prosperity, and that they have a legal department and paid attorneys. And there is averment and testimony of two organizations of mine owners who retain officers and attorneys to defend suits and secure releases from personal injury claims.

The length and character of the reports and tables of statistics preclude summary. It may be conceded that different deductions may be made from them, but they and the controversies over them and what they justified or demanded of remedy were matters for the legislative judgment and that judgment is not open to judicial review. Indeed, there may be a comprehension of effects and practical influences that can not be presented to a court and measured by it, and which it may be the duty of government to promote or resist, or deemed advisable to do so. Degrees of policies if they have bases are not for our consideration and the bases cannot be judged of by abstract speculations or the controversies of opinion. Legislation is impelled and addressed to concrete conditions deemed or demonstrated to be obstacles to something better, and the better, it may be, having attainment or prospect in different occupations

(we say occupations as this case is concerned with them) dependent in the legislative consideration upon their distinctions in some instances, upon their identities in others, and as the case may be, associated or separated in regulation. And this is the rationale of the principle of classification and of the cases which are at once the results and illustrations of it.

There are facts of especial pertinence that make the principle apply in the present case and justify the legislation of the State. That coal mining has peculiar conditions has been quite universally recognized and declared. It has been recognized and declared by this court and is manifested in the laws of the States where coal mining obtains. There is something in this universal sense and its impulse to special legislation—enough certainly to remove such legislation from the charge of being an unreasonable or arbitrary exercise of power.

The action of the Coal Company indicates that it considered the coal business distinctive. Other businesses though according to the Coal Company's assertion as hazardous as coal mining, accepted the law, the Coal Company and other coal companies rejected it. To this, of course, the coal companies were induced by comparison of advantages but the inducements to reject the legislation might well have been the inducement to make it compulsory. At any rate, there is, taking that and all other matters into consideration, grounds for the legislative judgment expressed in the amendment of 1919 under consideration, that is, Section 18 as amended. And the fact is to be borne in mind that there are 30,000 employes in the State engaged in coal mining.

The Coal Company further contends that the law includes within its terms all the Company's employes whether engaged in the hazardous part of its business or not so engaged. In other words, it asserts that the conditions of those who work underground may justify the law but do not justify its application to those who work above ground. The contention has a certain speciousness but cannot be entertained. It commits the law and its application to distinctions that might be very confusing in its administration and subjects it and the controversies that may arise under it to various tests of facts and this against the same Company. The contention is answered in effect by *Booth* v. *State of Indiana*, 237 U. S. 391.

Appellant invokes against the law Sections 21 and 23 of the Indiana Bill of Rights which respectively provide that no man's property or particular services shall be taken without just compensation, nor except in the case of the State, without compensation being first assessed and tendered, nor shall there be a grant of privileges to any citizen or class of citizens that shall not belong to all citizens.

Appellant, however, while admitting, indeed, citing cases to show that the classification of objects of legislation under the Bill of Rights of the State has the same bases of power and purpose as the classification of objects under the Fourteenth Amendment of the Constitution of the United States, yet contends that the Supreme Court of the State has strictly construed the Bill of Rights of the State, and has observed a precision in classification not required or practiced in the application of the Fourteenth Amendment. Citing for this *Indianapolis T. & T. Co.* v. *Kinney*, 171 Ind. 612, 617; *Cleveland, etc. R. R. Co.* v. *Foland*, 174 Ind. 411; *Richey* v. *Cleveland, etc. R. R. Co.*, 176 Ind. 542, at p. 558.

These cases were constructions of the Employers' Liability Act of the State. It was held in *Indianapolis T. & T. Co.* v. *Kinney, supra*, that that act was constitutional as to railroads because it related "to the peculiar hazards inherent in the use and operation of" them, and only applied to employes operating trains. It is the contention of the Coal Company that it is a deduction from that decision and the others cited, which may be said to be of the same effect, that there must be a difference observed between employes of coal mining companies as they are or are not engaged in the hazardous part of the business, and as that distinction is not observed in the Compensation Act it infringes the Bill of Rights of the State because it is made compulsory "upon coal mining companies with respect to their employes not engaged in the hazardous part of the business, and as to all other private business enterprises within the State, except railroad employes in train service, which are excluded, it is purely optional."

The argument in support of the contention is that the act requires all employes in the coal mining business to be paid compensation under the act whether employed above ground or under ground, that is, whether hazardously employed or otherwise, whereas in the cited cases, it is insisted, the court considered such

employment as a material distinction and that legislation which disregarded it would have unconstitutional discrimination.

The contention only has strength by regarding employers' liability acts and workmen's compensation acts as practically identical in the public policy respectively involved in them and in effect upon employer and employe. This we think is without foundation. They both provide for reparation of injuries to employes but differ in manner and effect, and there is something more in a compensation law than the element of hazard, something that gives room for the power of classification which a legislature may exercise in its judgment of what is necessary for the public welfare, to which we have adverted, and which cannot be pronounced arbitrary because it may be disputed and "opposed by argument and opinion of serious strength". *German Alliance Insurance Co.* v. *Kansas*, 233 U. S. 389; *International Harvester Co.* v. *Missouri*, 234 U. S. 199.

Decree affirmed.

A true copy.

Test:

Clerk Supreme Court, U. S.